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2012 IL App (3d) 120267-U

Order filed December 20, 2012

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2012

THE PUBLIC SAFETY EMPLOYEES' ORGANIZATION,	) Appeal from the Circuit Court
	) of the 9th Judicial Circuit,
Plaintiff-Appellant,	) Knox County, Illinois,
	)
v.	) Appeal No. 3-12-0267
	) Circuit No. 11-MR-70
	)
CITY OF GALESBURG,	) Honorable
	) Scott Shipplett,
Defendant-Appellee.	) Judge, Presiding.

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JUSTICE CARTER delivered the judgment of the court.  
Justices O'Brien and Holdridge concurred in the judgment.

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**ORDER**

- ¶ 1 *Held:* In a case involving a union grievance filed over a disciplinary suspension of a police officer, the trial court erred in finding that the parties' collective bargaining agreement excluded the dispute from arbitration and in granting the city's motion to deny arbitration on that basis. The appellate court, therefore, reversed the trial court's ruling and remanded the case with directions to refer the case to arbitration so that the arbitrator could decide whether the dispute was arbitrable under the parties' collective bargaining agreement.
- ¶ 2 Plaintiff, the Public Safety Employees' Organization (Union), filed in the trial court a motion to compel arbitration of a grievance it had lodged with defendant, the City of Galesburg

(City), over the discipline of police officer Donovan Godsil. The City filed a section 2-619 motion to deny (735 ILCS 5/2-619 (West 2010)) the Union's motion to compel, asserting that the dispute was not arbitrable under the parties' collective bargaining agreement. The trial court agreed and denied the Union's motion to compel arbitration. The Union appeals. We reverse the trial court's ruling and remand this case with directions.

¶ 3

### FACTS

¶ 4 The Union represented the City's police officers and had a collective bargaining agreement with the City. The agreement addressed several different subject areas, including discipline and grievances. As to discipline, the agreement provided, in pertinent part:

"The Chief of Police may discipline or file charges to discharge any police officer. Disciplinary actions and personnel actions shall be in accordance with applicable laws including those pertaining to the Board of Fire and Police Commissioners or as otherwise set forth in this Agreement.

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If an alleged violation falls within the scope of the Board of Fire and Police Commissioners' jurisdiction, all disciplinary meetings shall be conducted as per the current 'Uniform Peace Officers Disciplinary Act' of the State of Illinois. The parties agree that such proceedings and decisions thereof shall not be subject to the grievance procedure. If the alleged violation is outside the Board of Fire and Police Commissioners' jurisdiction, such disputes shall be subject to the grievance procedure. All such decisions rendered by either the City or the Board of Fire and Police Commissioners shall be mutually exclusive."

In addition, the agreement provided a detailed four-step procedure for the resolution of grievances. A grievance was defined very broadly in the agreement as "a dispute arising between the parties \*\*\* concerning a violation, or alleged violation, application or interpretation of [the] agreement." If a grievance was not resolved after the fourth step had been completed, the agreement provided that the grievance could be submitted to binding arbitration.

¶ 5 In February 2011, Galesburg police officer Donovan Godsil was suspended for one day by the chief of police for inappropriate behavior. The discipline was determined and administered by the chief without involvement of the City's Board of Fire and Police Commissioners (Board), although the Board was notified by the chief of the disciplinary action taken. The Union filed a grievance on Godsil's behalf. The parties proceeded through the four-step process outlined in the agreement but were unable to resolve their differences. The union demanded arbitration, but the City refused.

¶ 6 In August 2011, the Union filed in the trial court a motion to compel arbitration. The City filed a section 2-619 motion to deny the Union's motion to compel. After a hearing, the trial court granted the City's motion and denied the Union's motion to compel arbitration, finding that it was clear from the collective bargaining agreement that the parties intended to exclude the disciplinary action in the present case from the grievance and arbitration procedure. The Union appealed.

¶ 7 ANALYSIS

¶ 8 The Union argues on appeal that the trial court erred in denying the Union's motion to compel arbitration in the instant case. The Union asserts that the dispute in question—the one day suspension of officer Godsil—was within the scope of the broad arbitration clause contained in the

parties' collective bargaining agreement and that the trial court was required to compel arbitration. In the alternative, the Union asserts that it is unclear whether the dispute falls within the scope of the arbitration clause and that the matter should be referred to the arbitrator to decide whether the dispute is arbitrable. The Union asks, therefore, that we vacate the trial court's ruling and that we remand this case for the trial court to compel the parties to arbitration. The City argues that the trial court's ruling was proper and should be affirmed. The City asserts that arbitration must be denied because it is clear from the agreement that the parties intended to exclude the dispute in question from arbitration and because an interpretation to the contrary would lead to absurd results.

¶ 9 A trial court's ruling on a motion to compel arbitration is subject to *de novo* review on appeal. *LRN Holding, Inc. v. Windlake Capital Advisors, LLC (LRN)*, 409 Ill. App. 3d 1025, 1027 (2011). In addition, a trial court's ruling on a section 2-619 motion to deny a motion to compel arbitration is also subject to *de novo* review on appeal. See *Van Meter v. Darien Park District*, 207 Ill. 2d 359, 368 (2003). Accordingly, we will apply a *de novo* standard of review to the trial court's ruling in the instant case. See *LRN*, 409 Ill. App. 3d at 1027; *Van Meter*, 207 Ill. 2d at 368.

¶ 10 "The [Illinois Uniform Arbitration] Act embodies a legislative policy favoring enforcement of agreements to arbitrate future disputes." *Donaldson, Lufkin & Jenrette Futures, Inc. v. Barr (Donaldson)*, 124 Ill. 2d 435, 443 (1988). Arbitration is a favored method of resolving disputes because it is more effective and more cost-efficient than litigation. *City of Rockford v. Unit Six of Policemen's Benevolent & Protective Ass'n of Illinois (Rockford)*, 351 Ill. App. 3d 252, 255 (2004). Under section 2 of the Illinois Uniform Arbitration Act, upon

application of a party, the trial court is authorized to compel or stay arbitration, or to stay a court action pending arbitration. 710 ILCS 5/2 (West 2010); *Donaldson*, 124 Ill. 2d at 443-44. In such a proceeding, the sole issue before the trial court is the very narrow determination of whether there is an agreement between the parties to arbitrate the dispute in question. *Donaldson*, 124 Ill. 2d at 444, 449. The answer to that question and the intertwined question of who is to decide arbitrability must be resolved based upon the agreement between the parties. *Donaldson*, 124 Ill. 2d at 444-45. In making that determination, a three-pronged approach is applied: (1) if it is clear that the dispute falls within the scope of the arbitration clause or agreement, the trial court must compel arbitration; (2) if it is clear that the dispute does not fall within the scope of the arbitration clause, the trial court must deny the motion to compel arbitration; and (3) if it is unclear or ambiguous whether the dispute falls within the scope of the arbitration clause, the matter should be referred to the arbitrator to decide arbitrability. *Donaldson*, 124 Ill. 2d at 444-50; *LRN*, 409 Ill. App. 3d at 1027 (a trial court's decision whether to compel arbitration is not discretionary). In addition, because arbitration is a uniquely suitable procedure for settling labor disputes, such as the one in the present case, the arbitration provisions of collective bargaining agreements are to be given a broader interpretation than similar provisions in commercial agreements and all disputes are presumed to be arbitrable unless the parties have expressly agreed otherwise. See 5 ILCS 315/8 (West 2010); *Monmouth Public Schools, District No. 38 v. Pullen (Monmouth)*, 141 Ill. App. 3d 60, 63-64 (1985); *Rockford*, 351 Ill. App. 3d at 257.

¶ 11 Having reviewed the agreement in the present case, we find that the agreement is unclear as to whether the parties intended to have this particular dispute excluded from arbitration. In

our opinion, the ambiguous language is in the section on discipline that references the "scope" and "jurisdiction" of the Board. Under the applicable law, the Union (or officer Godsil) had the right to appeal the chief's discipline decision to the Board (see 65 ILCS 5/10-2.1-17 (West 2010)), a remedy which would seem to suggest that the Board had jurisdiction over this dispute. The Union, however, did not avail itself of that remedy and, instead, elected to file a grievance, which was also allowed under the parties' agreement and would seem to suggest that the parties intended that there be two alternative paths for resolving disputes, one involving the Board and the other involving the grievance procedure. Adding to that ambiguity, the agreement also states that the decisions of the City and the Board are mutually exclusive, another reference which again would seem to suggest that the parties intended there to be two alternative paths and that once a path was chosen, it could not be changed. Under the scenario of the present case, when there is a collective bargaining agreement with a broad arbitration clause and a dispute that is not clearly excluded from arbitration, this court is compelled under the law to refer this matter to arbitration for the arbitrator to decide whether this particular dispute is arbitrable under the agreement. *Donaldson*, 124 Ill. 2d at 444-50; *LRN*, 409 Ill. App. 3d at 1027; *Monmouth*, 141 Ill. App. 3d at 63-64; *Rockford*, 351 Ill. App. 3d at 257.

¶ 12

#### CONCLUSION

¶ 13 For the foregoing reasons, the judgment of the circuit court of Knox County is reversed and the case is remanded with directions to refer the case to arbitration for the arbitrator to decide whether the dispute falls within the scope of the arbitration clause in the parties' collective bargaining agreement.

¶ 14 Reversed and remanded with directions.